

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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THE ANNUITY, PENSION, WELFARE AND
TRAINING FUNDS OF THE I.U.O.E. LOCAL 14-14B,
AFL-CIO and INTERNATIONAL UNION OF
OPERATING ENGINEERS LOCAL 14-14B, AFL-CIO,

Plaintiffs,

- against -

FALCON STEEL CO., INC.,

Defendant.

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ROSLYNN R. MAUSKOPF, United States District Judge.

ORDER ADOPTING
REPORT AND RECOMMENDATION
16-CV-0020 (RRM) (RLM)

Plaintiffs, the International Union of Operating Engineers Local 14-14B, AFL-CIO (“Local 14”) and its trustees for various pension and welfare benefit plans (“Trust Funds”), commenced this action on January 4, 2016 against defendant Falcon Steel Co., Inc., (“Falcon Steel”) alleging that Falcon Steel failed to remit required contributions in connection with a collective bargaining agreement in violation of the Employee Retirement Income Security Act, 29 U.S.C. § 1132 et seq. (“ERISA”), and Section 301 of the Labor Management Relations Act, 29 U.S.C. § 185 et seq. (“LMRA”). (*See generally* Compl. (Doc. No. 1).)

On January 15, Local 14 and the Trust Funds filed an affidavit of service with respect to Falcon Steel. (*See* Affidavit/Declaration, Pl.’s Ex. A (Doc. No. 9-1) at 10.) However, Falcon Steel failed to respond to the complaint or otherwise appear in this action. (*See* Clerk’s Entry of Default (Doc. No. 7).) As a consequence, on February 11, 2016 the Clerk of the Court entered a notation of default against Falcon Steel. *Id.*

On February 19, 2016, plaintiffs filed and served a motion for default judgment and submitted both an auditor’s report and a statement of damages. (*See* 2/19/2016 Pl. Mot. and Statement of Damages (Doc. No. 8); 12/03/15 Auditor’s Report (Doc. No. 9-7) at 1.) Falcon Steel

did not respond. On March 8, 2016, the Honorable Chief Magistrate Judge Roanne L. Mann issued an order to show cause why the relief requested in plaintiffs' motion papers should not be granted. (See 3/8/2016 Order to Show Cause (Doc. No. 16).) Again, Falcon Steel did not respond. *Id.*

On April 13, 2016, Judge Mann issued a Report and Recommendation ("R&R") recommending that the Court enter default judgment against Falcon Steel and directing Falcon Steel to file any objections to the R&R by May 2, 2016. (R&R (Doc. No. 18).) Falcon Steel did not file any objections.

Pursuant to 28 U.S.C. § 636(b) and Rule 72, the Court has reviewed the R&R for clear error and, finding none, adopts the R&R in its entirety. *See Covey v. Simonton*, 481 F. Supp. 2d 224, 226 (E.D.N.Y. 2007).

CONCLUSION

Accordingly, it is hereby ORDERED that: plaintiffs' motion for default judgment against Falcon Steel is granted. (Doc. Nos. 8, 14.) Judgement shall enter in favor of plaintiff the Annuity, Pension, Welfare and Training Funds of the I.U.O.E. LOCAL 14-14B, AFL-CIO as against defendant Falcon Steel in the following amounts: \$2,724.35 in delinquent ERISA contributions; \$382.19 in interest on that amount through September 1, 2015; six percent interest from September 2, 2015 through the date of judgment; \$2,340.00 in attorney's fees; and \$505.00 in costs.

Judgement shall enter in favor of plaintiff, the International Union of Operating Engineers Local 14-14B, AFL-CIO as against defendant Falcon Steel in the following amounts: \$742.86 in unpaid CBA Contributions and \$80.53 in interest.

The Clerk of Court is directed to enter Judgment pursuant to this Order and close the case. Plaintiffs are directed to serve a copy of this Order and the accompanying Judgment on Falcon Steel at its last known address and file proof of service with the Court.

SO ORDERED.

Dated: Brooklyn, New York
Mauskopf 8, 2017

s/Roslynn R. Mauskopf

ROSLYNN R. MAUSKOPF
United States District Judge